

**REMARKS**

Upon entry of the present amendment, claims 1, 4, 10-15, 19-25 and 27-35 are pending in the above-referenced patent application and are currently under examination. Claims 1, 4, 10, 11, 24, 25 and 35 have been amended. Claim 2, 3, 5-9, and 26 have been newly canceled. Reconsideration of the application is respectfully requested.

Applicants note that the Examiner has withdrawn claims 9-15 and 30-32 as being drawn to non-elected subject matter. In regards to compound claims 10-15, these claims have been withdrawn in view of the Examiner's selection of  $L^3$  as a bond and  $R^3$  as benzyl. Applicants note that the claims have been amended to recite that  $L^3$  is an unsubstituted methylene and  $R^3$  as optionally substituted phenyl, such that the combination of  $L^3$ - $R^3$  is still benzyl and within the scope of claims searched. Because claims 10-15 (claim 9 is canceled) are drawn to compounds where  $L^3$ - $R^3$  is benzyl, Applicants submit that claims 10-15 are within the scope of compounds searched and, thus, are not withdrawn.

Claim 1 has been amended to the scope of claim 26 wherein  $L^2$  is a bond,  $R^1$  is absent,  $R^2$  is (=O), and the dashed line "a" is a bond. Additional amendments to claim 1 include where  $L^3$  is unsubstituted methylene and  $R^3$  is optionally substituted phenyl such that the combination of  $L^3$ - $R^3$  is benzyl. Support for the amendments to claim 1 can be found throughout the specification, and in original claims 7 ( $R^1$  is absent), claim 9 ( $R^3$  is optionally substituted phenyl) and claim 26 (formula II).

Claim 4 has been amended to remove subject matter recited in claim 1.

Claims 10 and 11 have been amended to change the claim dependency in view of the cancellation of claim 9.

Claims 24 and 25 have been amended to conform to the scope of amended claim 1.

Claim 35 has been amended to be in independent form.

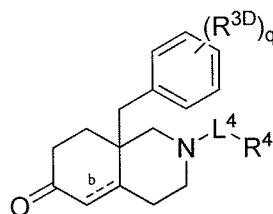
Applicants believe the claim amendments add no new matter to the claims.

Applicants thank the Examiner for her time and consideration of the issues during the telephonic interviews on March 23 and June 29, 2009. Applicants' representative and the Examiner discussed the outstanding rejections and possible claim amendments to overcome the rejections. In particular, amendments to a scope other than that which was searched was discussed.

## I. OBJECTION TO MARKUSH GROUP

Claims 1-8, 19-29 and 33-35 have been objected to on the grounds that the claims are drawn to an improper Markush group. The Examiner alleges that the improper Markush groups are  $L^2$ ,  $L^3$ ,  $L^4$ ,  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , X and A. Applicants respectfully disagree.

Applicants note that radicals  $L^2$ ,  $L^3$ ,  $R^1$ ,  $R^2$ , and  $R^3$  have been amended to focus on preferred embodiments. The generic structure defined by the amendments to claim 1 is as follows:

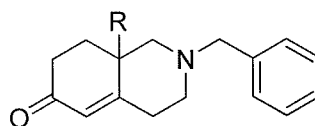


Applicants submit that in view of the amendments to  $L^2$ ,  $L^3$ ,  $R^1$ ,  $R^2$ , and  $R^3$ , the compounds of the amended claims share a common utility, as shown above, and that the Markush groups are proper. Accordingly, Applicants respectfully request that the Examiner withdraw this aspect of the objection.

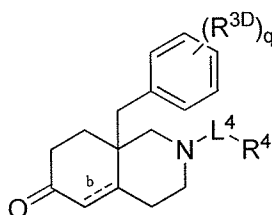
## II. ANTICIPATION REJECTION BY MAGEE

Claims 1-8, 19-21, 24, 26, 27 and 33 have been rejected under 35 USC § 102(b) as allegedly being anticipated in view of MaGee. Applicants respectfully traverse the rejections in view of the comments below.

As the Examiner notes, the compounds of MaGee recite an R groups as hydroxy methyl and methyl ester, where  $L^3$  of the claimed structure is a bond and  $R^3$  is substituted alkyl, as shown below:



As noted above, the amended claims are drawn to compounds of the following structure, where the R group of MaGee is a benzyl:



Because the compounds of MaGee do not describe R as being benzyl, the compounds of MaGee fail to describe each and every element of the instant claims. Since the compounds MaGee fail to teach each and every element of the amended claims, MaGee does not anticipate the amended claims under 35 U.S.C. § 102(b). Accordingly, Applicants respectfully request that the Examiner withdraw this aspect of the rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Alexander R. Trimble  
Reg. No. 52,301

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
Attachments  
ART:art  
61861149 v1